IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 765 of 2006

Vinay Narayan Saklani

S/o late Pandit Gyaneshwar Narayan Saklani,

R/o through Sri Narendra Bahadur Sresth,

GHA 188-2 Nagpokhari Colony

Naksal Behind Back Gate of Elites Coaid School,

Katmandu (Nepal) ...Petitioner

Versus

1. Raman Badoni S/o late Dayanand Badoni,

   R/o 17-B Rajpur Road, District Dehradun.

2. Prescribed Authority, District Dehradun.....Respondents

Mr. Sharad Sharma, Counsel for the Petitioners

Standing Counsel for the respondent no.2.

Dated 20.6.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of certiorari, quashing the order dated 24.3.2006.

Briefly stated, application for release of the property bearing municipal Property No. 17, 17-B Rajpur Road, present No. 54 Rajpur

Road, Dehradun was filed on 4.7.2003. In spite of the notice issued to respondent no. 1, he did not appeared in proceedings of the suit, therefore, suit was directed to proceed exparte by the order dated 8.4.2004.

The release application was allowed on 13.6.2004. The respondent no.1 has filed a restoration application, which was registered as Misc. P.A. case No. 412 of 2005. The said application was allowed on 24.03.2006. Petitioner has filed the present writ petition for quashing the said order. Since the order impugned is a order of restoration, therefore, I am not inclined to interfere with the order under Article 226/227 of the Constitution of India.

However, counsel for the petitioner has submitted that in accordance with the law laid down by Allahabad High Court, in Dalip Kumar and others Vs. Prescribed Authority and others the application under section 21 (1) (a) of U.P. Act No. 13 of 1972 has to be disposed of within a period of two months as required by rule 15(3) of U.P. Act No. 13 of 1972. Rule 15 (3) of the Act is quoted below :-

Rule 15(3) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act. 1972 framed under the U.P. Act No. 13 of 1972 provides as under.

Petitioner has referred the judgment of Allahabad High Court, in Dilip Singh's (supra), the observations are quoted below :-

4. Under the scheme of the U.P. Act No. 13 of 1972, an application seeking release of an accommodation had to be disposed of expeditiously. If may be notices that the aforesaid Rule uses the expression "as for as possible". In the decision of the case of Prem Prakash Gupta and others V. IInd Additional District Judge, Allahabad and others, reported in 1993(I) ARC 77, this court had pointed out that the words 'as far as possible as used in the aforesaid rule signifies that the time limit should be adhered to unless for cogent reasons it is not possible to do so. It was further observed in that case that such a provision has obviously been made to protect the interest of the landlord and to ensure that in case sufficient ground has been made out, the accommodation should be made available at the earliest to satisfy the requirement of the landlord.

In view of the aforesaid, Prescribed Authority is directed to dispose of the application within a period of two months from the filing of the certified copy of the order.

Writ petition is disposed of. No order as to costs.

Dated: 20.6.2006 (Rajesh Tandon, J.)